

Secretary

From: eden.cheung@oocl.com
Sent: Thursday, January 27, 2011 6.06 AM
To: Secretary
Cc: pearl.chow@oocl.com
Attachments: FMC questionnaire.doc

Dear Ms Rachel E. Dickon,

Pls find attached our response to the questionnaire of FMC

Should you have any queries, pls contact the undersigned.

Thanks and regards,

Eden Cheung
Deputy Manager - Communications
OOCL

Tel: (852) 2833 3819

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FMC E.U. Study Notice of Inquiry Questions

Identifying Information (Please provide the information requested below with your NOI response.)

Name of Respondent: (individual) Ms. Pearl Chow

Respondent's Title/Position: Assistant General Manager – Public Relations & Promotion
Corporate Planning

Contact Information: Telephone and E-mail : (852) 2833 3480 e-mail:pearl.chow@oocl.com

Name and Address of Company or Other Entity: Orient Overseas Container Line Ltd.

31/F Harbour Centre, 25 Harbour Road, Wanchai, Hong Kong

Type of Company or Other Entity: VOCC

Beneficial Cargo Owner (BCO)

Ocean Transportation Intermediary (OTI)

Shippers' Association

Vessel-Operating Ocean Carrier (VOCC)

Public Port Authority

Other, please describe (e.g., marine terminal operator,
trade association, government agency, etc.)

Section A: General Questions

1. Based on your experience *since September 2006* (when the European Union announced its decision to terminate the block exemption for liner shipping conferences to take effect October 2008), what impacts, if any, have you identified on your company's commercial activities, *in any trade lane*, that you would *attribute to the termination of the E.U. conference block exemption*? Please explain. If you believe there have been such impacts, please indicate when that impact first occurred.

We make sure that our staff would not discuss commercial matters with other competitors. We organize regular training and examination for our staff to understand and comply with the competition laws and the guidelines

Self assessment will be conducted for implementing RR plans, changes to existing charges and surcharges and establishing new charges and surcharges.

2. Based on your experience *since October 2008* (when the E.U. exemption for liner conferences was terminated) has any class of shipper or class of vessel-operating common carrier received a competitive advantage or been put at a competitive disadvantage as a result of the E.U. decision to terminate the exemption? If so, please explain.

We do not see much difference.

3. Based on your experience *since October 2008* (when the E.U. exemption for liner conferences was terminated), have differences between U.S. and E.U. liner shipping competition regulations created any problems for your company? If so, please explain. We do not think problems are created due to the changes in competition regulations, though there are adjustment in internal process to follow the new regulation, e.g. we organize internal training and examination for staff to understand and follow the new regulation.
4. Does your company view cooperation among ocean carriers in *operational agreements* (e.g., vessel sharing agreements, alliances, consortia, etc.) as generally having a positive, neutral or negative impact on the availability or cost of liner shipping services? Please explain. Does the E.U. market share threshold of 30% for such operational agreements have any effect with respect to that impact? If so, please explain.

The impact is positive. Many carriers would not be able to maintain the same level of service as they are today if they are not party to operational agreements by pooling vessels together to offer the required sailing frequency or to cover the number of port calls to meet customer needs. The cooperation through operational agreements does not only help the carriers to cut down investment on ships but also eliminates the unnecessary over-investment which will have more ships running and produce more environmental problems, such as green house gases emission and ships lining up in ports waiting for berth

30% threshold is not a major concern for our company as we do not intend to operate in alliance with a dominant market position.

Section B: Questions about the North Atlantic Trade (North Europe/U.S.)

5. Approximately what percent of your company's freight earnings (lines, OTIs) or shipping expenses (shippers) involves international shipping in the North Europe/U.S. trade? Does your company's business involve US imports (westbound service) only, U.S. exports (eastbound service) only, or both? Please explain briefly.

TAT represents 10.3% of OOCL's total Revenue and 7.6% of Total lift in 2010 thru the third quarter (from operational update) OOCL participates in both WB and EB services between North Europe and USA/Canada and Mexico

6. How and to what extent, did the recent economic recession (2008 – 2009) affect your company's liner shipping-related business in the North Europe/U.S. trade? Please explain.

The affect of the recession was dramatic. The Trans-Atlantic Trade reported a loss for the first time since 2000. Demand contracted faster than supply and competitive pressures mounted. As a result, the significant volatility experienced during the 2008 – 2009 recession resulted in a better understanding and appreciation for stability for both the shipper and liner perspective.

7. Based on your experience *prior to July 2008*, when the Trans-Atlantic Conference Agreement (TACA) disbanded, did the existence of TACA have any impact on your liner shipping-related business in the North Europe/U.S. trade? If so, please explain.

TACA produced a level of stability, transparency, and standardization that has subsided since its termination. Conference members were able to discuss capacity collectively as a group to negate short term troughs in demand (or to address peaks in demand). The ability to discuss capacity planning beyond the consortium provides the opportunity for greater stability of price.

8. Based on your experience in the period *from October 2008 to the present* (i.e., since the E.U. block exemption was terminated), has there been any significant change(s) in liner services in the North Europe/U.S. trade *that you attribute to the E.U. terminating the block exemption*? For example, changes in:

a. the level of freight rates and surcharges;

Rate simplification

b. the frequency with which rates or surcharges are adjusted upward or downward (rate volatility);

Increase volatility

c. the assessment of surcharges;

Limited standardization of surcharges (as advised by our customers) and introduced based on merit by carriers individually

d. the level of competition among ocean carriers;

No change

e. the service contracting practices or terms offered by ocean carriers;

Contracting practices are maturing as procurement strategies become more sophisticated. Changes are apparent, although not related to the termination of TACA. Many customers are multi-trade shippers (i.e. TPT)

f. the availability of vessel capacity and container equipment; or

Logically supply is less malleable as TACA was permitted to talk about capacity planning. Volatility of space and equipment availability

g. the level or quality of liner services (including customer service, billing accuracy, etc.)

No change reported by customers

If so, please identify and explain those changes.

9. For CY 2010 to date, please estimate the percentage of your annual business (by volume) *in the North Europe/U.S. liner trade* that moved under (a) annual (or longer) service contracts, (b)

shorter-term freight agreements, (c) spot rates, and (d) other (please specify). Has that changed significantly since October 2008? If so, please explain.

Based on 2010 volume –
Eastbound:

Long term (greater than 1 year) = 48%
Medium term (1 month to 1 year) = 51%
Spot (shorter than 1 month) = 1%

Westbound:

Long term (>1 year) = 38%;
1 month or shorter = 6%;
balance = 56%

10. Following repeal of the E.U. block exemption, ocean carriers created a global information system under *Container Trade Statistics, Ltd.* (CTS) in which a majority of ocean carriers serving the North Europe/U.S. trade participate. CTS provides certain data free on its web site, including indices of the carriers' aggregated average revenue per TEU by month. CTS also sells other data. To what extent, if at all, does your company access and use CTS Europe/U.S. trade data, and (if it does so) for what purpose(s)?

We subscribe to CTS and review data for historical comparison purposes. At present the data is useful in determining demand patterns from which we can project future demand and build strategies to ensure sufficient supply is available

Section C: Questions about the Transpacific Trade (Far East/U.S.)

11. Approximately what percent of your company's freight earnings (lines, OTIs) or shipping expenses (shippers) involve international shipping in the Far East/U.S. trade? Does your company's business involve U.S. imports (eastbound service) only, U.S. exports (westbound service) only, or both? Please explain.

Approximately 35% of company's freight earnings in the Far East/US trade

12. How, and to what extent, did the recent economic recession (2008-2009) affect your company's liner shipping-related business in the Far East/U.S. trade? Please explain.

Following the 7% decline in 2008, US imports shrank by another 15% in 2009, reaching the lowest level seen in the past six years. Reduced demand heightened price competition, starting in November 2008. By the summer of 2009, rates had declined by more than 30% and rates remained at non-remunerative level throughout the year.

Impact of lifting and revenue in the Far East/U S. trade as follows:

	<u>2009</u>	<u>2008</u>	<u>Variance</u>
Teu Lifting ('000)	1,158	1,324	(13%)
Revenue (US\$M)	1,493	2,239	(33%)

13. Based on your experience *from January 2006 to the present*, have the activities of the Trans-Pacific Stabilization Agreement (TSA) or the Westbound Trans-Pacific Stabilization Agreement (WTSA) had any significant impact on your company's liner shipping-related business in the Far East/U.S. trades? If so, please explain.

Both are non-binding agreements with voluntary guideline which provide a good forum for carriers to exchange market rate information to the extent the law allowed. All actions are/were solely based on OOCL own commercial decision.

14. Based on your experience in the period *from October 2008 to the present*, have there been any significant characteristics of liner services in Far East/U.S. trades that you *attribute to actions taken by TSA or WTSA member lines acting collectively*? For example:

- a. the level of freight rates and surcharges;
- b. the frequency with which rates or surcharges are adjusted upward or downward (rate volatility);
- c. the assessment of surcharges;
- d. the level of competition among ocean carriers;
- e. the service contracting practices or terms offered by ocean carriers;
- f. the availability of vessel capacity and container equipment; and
- g. the level or quality of liner services (including customer service, billing accuracy, etc.)

If so, please identify and explain those characteristics.

All actions are/were solely based on OOCL own commercial decision and judgment.

15. For CY 2010 to date, please estimate the percentage of your annual business (by volume) *in the Far East/U.S. liner trade* that moves under (a) annual (or longer) service contracts, (b) shorter-term freight agreements, (c) spot rates, and (d) other (please specify)? Has that changed significantly since October 2008? If so, please explain.

We have been moving very consistently in terms of percentage of our annual business without change significantly since 2008 to CY 2010 to date (up to week 50)

For Far East to USA (a) annual (or longer) service contract was/is around 99.6% while the remaining small percentage split between (b) and (c)
For USA to Far East. (a) annual (or longer) service contract was/is around 95.4% and about less than 1% and 4% for (b) shorter-term agreements and (c) spot rates respectively.

Section D: Questions about the Europe – Asia Trade (Far East/Europe)

16. Approximately what percent of your company's freight earnings (lines, OTIs) or shipping expenses (shippers) involve international shipping in the Far East/Europe trade? Does your company's business involve European imports (westbound service) only, European exports (eastbound service) only, or both? Please explain briefly.

About 24% of our revenue comes from Asia/Europe. Our business involves both Eastbound and Westbound.

17. How, and to what extent, did the recent economic recession (2008-2009) affect your company's liner shipping-related business in the Far East/Europe trade? Please explain.

Economic recession in 2008-2009 affected not only one individual carrier but the industry profoundly - one different landscape is slow steaming (or extra slow streaming) that is generally adopted to be the norm of the industry

18. Based on your experience *prior to* October 2008 (i.e., before the Far East Freight Conference (FEFC) disbanded), did the existence of FEFC have any impact on your liner shipping-related business in the Far East/Europe trade? Please explain.

We do not see any impact to our business from FEFC's existence as her role had been more or less a secretarial function for member lines.

19. Based on your experience in the period *from October 2008 to the present* (i.e., since the E.U. block exemption was terminated), has there been any significant change(s) in liner services in the Far East/Europe trade *that you attribute to the E.U.'s ending of the block exemption*? For example, changes in:

- a. the level of freight rates and surcharges;
- b. the frequency with which rates or surcharges are adjusted upward or downward (rate volatility);
- c. the assessment of surcharges;
- d. the level of competition among ocean carriers;
- e. the service contracting practices or terms offered by ocean carriers;
- f. the availability of vessel capacity and container equipment; and
- g. the level or quality of liner services (including customer service, billing accuracy, etc.)

If so, please identify and explain those changes.

We will not attribute any of the changes in liner services to to EU's ending of the block exemption. All should be determined by the natural laws of supply and demand.

20. For CY 2010 to date, please estimate the percentage of your annual business (by volume) in the Far East/Europe liner trade that moved under (a) annual (or longer) service contracts, (b) shorter-term freight agreements, (c) spot rates, and (d) other (please specify)? Has that changed significantly since October 2008? If so, please explain.

There is not any real contract agreements for short/medium/long terms business deals in Asia/Europe trade. The so called contract is just a gentleman agreement, as far as rate filing record is concerned. Relatively speaking, we have about 10% business volume moving under a more stable freight terms, as majority of the freight are on spot basis

21. Following repeal of the E.U. block exemption, ocean carriers created a global information system under *Container Trade Statistics, Ltd. (CTS)*, in which a majority of ocean carriers serving the Far East/Europe trade participate. CTS makes certain data free on its web site, including indices of the carriers' aggregated average revenue per TEU by month. CTS also sells other data. To what extent, if at all, does your company access and use Far East/Europe trade data, and (if it does so) for what purpose(s)?

The usage of CTS data at OOCL is just for general reference purpose. The accuracy of lines' submission, interpretation of definitions, different voyage cut off dates and etc. can hardly support an apple to apple comparison among lines. Besides, a few major liner operators are not the members of CTS or the previous ELAA.

Section E: Comparisons Among Trades

22. Based on your experience since October 2008 (since the E.U. block exemption was terminated) are there differences in the characteristics of the Far East/U.S. trade versus the Far East/Europe or North Europe/U.S. trades that you attribute to differences between U.S. and European liner competition regulations? For example, differences in:

a. the level of freight rates and surcharges;

The freight rates tend to move more often and more volatile in the Asia/Europe and US/Europe trades

b. the frequency with which rates or surcharges are adjusted upward or downward (rate volatility);

There is not much difference on the change in surcharges between these two trades and the Asia/US trade.

c. the assessment of surcharges;

Carriers always compete for cargo, but the termination of the block exemption may bring an effect to higher rate volatility

d. the level of competition among ocean carriers;

e. the service contracting practices or terms offered by ocean carriers;

There is no impact on service contracting practice.

f. the availability of vessel capacity and container equipment; and

g. the level or quality of liner services (including customer service, billing accuracy, etc.)

We do not see the relation of block exemption on availability of capacity and containers, nor a change on liner services, though carriers may become more cautious in future investment due to increased volatility

If so, please explain those differences.

23. Please identify any significant similarities and dissimilarities (for example, cargo volumes, scope or scale of operations, shipper mix, geography, market concentration levels, contracting practices, legal requirements, etc.) that existed in liner shipping markets in the (1) Far East/U.S. trade and the (2) Far East/Europe trade during the period 2006-2010. In your opinion, how (if at all) would those similarities and dissimilarities likely impact a comparison of liner pricing and service behavior across those two trades?

Size of ships seems to be a major dissimilarity for the 2 trades concerned. Though ship size are generally growing, the largest ships will go to the Asia/Europe trade. The smaller ones (though still large in size) or those cascaded from the Asia/Europe trade will go to Asia/US trade. There is not a definite relation of the size of ships to the pricing behavior, but the carrier which introduce the larger size vessels may feel the pressure to fill up the new additional capacity and may tend to be more aggressive on pricing at that point in time to fill the vessel.

**Section F: Additional Questions for Vessel-Operating Common Carriers
FOR VOCCs ONLY:**

24. Please estimate the percentage of your liner revenues (globally) that were earned in each of the following trade lanes during CY 2010 to date:

- a. North Europe/U.S. liner trade _8_ %
- b. Far East/U.S. liner trade _26_ %
- c. Far East/Europe liner trade _16_ %
- d. All other liner trades ___50_ %
- e. Total (all liner trades combined) 100 %

If those percentages changed significantly during the 2006 through 2010 period, please describe and explain the change.

25. In each of the three major East-West trades, please estimate the percent of cargo your company carried for beneficial cargo owners (BCO) accounts, (b) OTI accounts, (c) other accounts (if any, please explain) during CY 2010 to date:

BCO OTI Other

- f. North Europe/U.S. liner trade _44_ % _56_ % ___ %
- g. Far East/U.S. liner trade ___60_ % _40_ % ___ %
- h. Far East/Europe liner trade 33_ % _67_ % ___ %

Has the relative ranking of shipper types in these trade lanes changed significantly during the 2006 through 2010 period? If so, please describe and explain the change.

26. In each of the three major East-West trade lanes, please indicate which lanes have tended to be the relatively most profitable and which was the relatively least profitable for each year between 2006 and 2010 (inclusive). [Write *M* for most, and *L* for least.]

Far East/U.S.; Far East/Europe; North Europe/U.S.

	FE/US	FE/EU	NE/US
2006	M	L	
2007		M	L
2008		M	L
2009	All service incurred losses		
2010		M	L

If those rankings changed significantly during the 2006 through 2010 period, please explain the reason(s) for the change.

27. Based on your experience during the period *from January 2006 to the present*, have there been any significant changes in the nature of your business in the *North Europe/U.S.* liner shipping market related to *changes* in:

- Seasonality of cargo movements;
- Commodity values;
- Directional cargo imbalances (imports vs. exports);
- Number of carriers serving the trade; or
- Minimum scale (# and size of vessels) needed to serve the trade efficiently

If so, please identify and explain those changes.

No significant change is spotted

28. Based on your company's experience in the *North Europe/U.S.* trade, please identify any substantial changes that occurred in your liner business (operations, marketing, pricing, etc.) in the two years following repeal of the E.U. liner conference exemption (CY 2009 and 2010) as compared with the two years preceding the repeal (2006 – 2007)? If any, please explain.

- Higher rate volatility
- Self assessment when implementing general rate increase or rate restoration, surcharges adjustment or establishment of new surcharges.

- Staff members go through regular training and examination for complying to competition regulations

29. Based on your experience during the period *from* January 2006 *to* the present, have there been any significant changes in the nature of your business in the *Far East/U.S.* liner shipping market related to *changes* in:

- a. Seasonality of cargo movements,
- b. Commodity values
- c. Directional cargo imbalances (imports vs. exports)
- d. Number of carriers serving the trade; or
- e. Minimum scale (# and size of vessels) needed to serve the trade efficiently

If so, please identify and explain those changes.

- Ships of larger size are being deployed for economy of scale to bring down cost. And more ships are deployed in the service to cut down bunker fuel consumption due to surging fuel price, as well as heightened concern on environmental protection puts pressure on carriers to reduce speed to cut down green house gases emission.

30. Based on your experience during the period *from* January 2006 *to* the present, have there been any significant changes in the nature of your business in the *Far East/E.U.* liner shipping market related to *changes* in:

- a. Seasonality of cargo movements;
- b. Commodity values;
- c. Directional cargo imbalances (imports vs. exports);
- d. Number of carriers serving the trade; or
- e. Minimum scale (# and size of vessels) needed to serve the trade efficiently

If so, please identify and explain those changes.

Same as in Q29 that larger ships and more ships are deployed.

NOW THEREFORE, it is ordered that Notice of this Inquiry be published in the Federal Register.

By the Commission.

Karen V. Gregory
Secretary